IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 6510 of 2005

Between:

P.Rama Rao, E-502774, Driver, s/o Seshaiah,

Ongole Depot, r/o Ongole, Prakasam District.

..... PETITIONER

AND

1 The APSRTC rep., by its Depot Manager,

Ongole, Prakasam District.
2 The Labour Court rep., by its Presiding Officer,

Guntur, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari, order or direction, declaring the award of the Labour Court dt.17-11-2004 in I.D.No.255/98, which was published in the gazette vide GO Rt.No.2453, dt.14-3-2005 as illegal, unjust and arbitrary, contrary to well established principles of law and as such liable to be set aside by directing the D.M. to pay the arrears of deferred pay from 22-9-1994 forthwith in the interest of justice and pass such other order or orders as may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondent No.1: R.MANMADHA REDDY, SC FIR APSRTC

Counsel for the Respondent No.2: GP FOR LABOUR

The Court at the admission stage made the following:

ORDER:

Challenging the Award of the Labour Court dated 17.11.2004 in I.D.No.255 of 1998, the present writ petition is filed.

The petitioner is working as a Driver in the respondent Corporation. He was charged for certain irregularities. He submitted his explanation. The 1st respondent passed an order on 22.09.1994 without conducting any enquiry by imposing a penalty of deferment of annual increment for a period of one year, which shall have effect on future increments of the petitioner. The petitioner approached the conciliation authority and the authority referred the dispute to the 2nd respondent-Labour Court. The 2nd respondent passed a nil award by observing that the punishment imposed was a minor one and the claimant kept quiet for four years. Challenging the same, the present writ petition is filed.

2. The grievance of the petitioner is that since it is a major punishment, it cannot be maintained unless it is imposed after holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition to declare that the Award of the 2nd respondent is illegal and to direct the 1st respondent to add the deferred increment.

3. It is well settled that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

4. Having regard to the fact that the punishment of major penalty of deferment of annual increment for a period of one year with cumulative effect, imposed by the 1st respondent without conducting any enquiry, it can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of annual increment for a period of one year without cumulative effect. The petitioner is not entitled for the difference of the amount if any by virtue of this Order, but he is entitled to get the increment on notional calculation from the date of this Order to which he is entitled.

5. The writ petition is, accordingly, disposed of. No costs.

Dated: 28.03.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Depot Manager, APSRTC,

Ongole, Prakasam District

2. The Presiding Officer,

The Labour Court,

Guntur, Guntur District

3. Two CCs to the Government Pleader for Labour,

High Court Buildings, Hyderabad (OUT)

4. Two CD copies